

BLM Manual 3150
- Onshore Oil and Gas Geophysical Exploration Surface Management Requirements

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Appendix 1. Applicable Authorities Relating to Onshore Oil and Gas Geophysical Exploration Surface Management Requirements

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- Onshore Oil and Gas Geophysical Exploration Surface Management Requirements

.01 Purpose. This Manual establishes procedures for processing Notices of Intent to Conduct Oil and Gas Geophysical Exploration Operations (NOI) and conducting oil and gas geophysical exploration on Federal lands administered by the Bureau of Land Management (BLM) in the lower 48 States. It describes the functions and responsibilities of the BLM as they pertain to authorization of oil and gas geophysical exploration. (See 43 CFR 3152 for geophysical exploration in Alaska.)

.02 Objectives. The BLM's objectives are to facilitate the evaluation, exploration, development, and utilization of oil and gas resources while assuring adequate protection of other resource values. In order to accomplish these objectives, the BLM is adopting policies and procedures that will encourage multiple uses, including the evaluation of Federal lands for mineral potential.

.03 Authority.

A. Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.).

B. Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-

359).

C. Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

D. The General Mining Law of 1872 Section 2319 of the Revised Statutes (30 U.S.C. 22 et seq.).

E. 43 CFR 3150--Onshore Oil and Gas Geophysical Exploration.

F. See Appendix 1 for a list of other applicable laws, regulations, executive orders, agreements and memoranda of understanding, and Solicitor's Opinions relating to geophysical exploration.

.04 Responsibility.

A. The Director is responsible for providing overall guidance on administration of geophysical activities in the BLM. The Director is also responsible for developing new forms, maintaining the current regulations, and issuing appropriate Manual instructions.

B. The State Director is responsible for implementing Washington Office directives and developing statewide guidance for geophysical activities in the State. The State Director shall ensure that current policy and guidance are applied consistently across the State. The State Director is also responsible for holding and administering the statewide and nationwide bonds.

C. The District Manager is responsible for ensuring that policy and guidance are applied uniformly across the District. The District Manager will hold and administer the individual geophysical bonds filed for operations within the District.

D. The Area Manager is usually the authorized officer and is responsible for processing each NOI and ensuring that other resource values are protected by:

1. Following the guidelines identified in this Manual and, where necessary, providing the operator with additional information needed to avoid or mitigate adverse impacts to the resource values in the area.

2. Developing appropriate terms and conditions in response to the NOI and ensuring that field inspections are conducted in a timely manner during and following operations.

3. Ensuring that the operator is in compliance with all terms and conditions attached to the NOI by using proper inspection and enforcement practices as described in this Manual and Handbook.

4. Establishing procedures to ensure that all resource staff specialists are aware of

and comply with the 5-working-day time limit available for processing completed NOI's or notifying the operator that there will be a delay. The authorized officer shall determine which activities can be classified as casual use. The authorized officer shall also determine the appropriate level of environmental review.

5. Maintaining the confidentiality of data provided to BLM in connection with an NOI if confidentiality of the data is requested by the party filing the NOI. This applies to confidential data provided in filing the NOI and in complying with the conditions of the NOI.

6. Ensuring that the operator complied with the terms and conditions attached to the NOI when the Notice of Completion of Oil and Gas Exploration Operations (NOC) is filed, and notifying the operator within 30 days after receipt.

.05 References.

A. 43 CFR Subpart 3104--Bonds

B. 43 CFR 3160--Onshore Oil and Gas Operations

C. 43 CFR 8340--Off-Road Vehicles

D. BLM Manual Section 1272 - Records Disposition

E. BLM Manual Section 1274 - Serialized Case File System

F. BLM Manual Section 3104 - Bonds

G. BLM Manual Section 6840 - Special Status Species Management

H. BLM Manual Section 8550 - Interim Management Policy and Guidelines
for Lands Under Wilderness Review

I. BLM Manual Section 8560 - Management of Designated Wilderness Areas

J. BLM Handbook H-1624-1 - Planning for Fluid Mineral Resources

K. BLM Handbook H-1790-1 - National Environmental Policy Act Handbook

L. BLM Handbook H-3150-1 - Onshore Oil and Gas Geophysical Exploration
Surface Management Requirements

.06 Policy. Geophysical exploration on public lands, the surface of which is

administered by the BLM, requires approval by the authorized officer

(43 CFR 3150). Other regulations and laws may require additional responsibilities. The BLM will encourage the evaluation, development, and utilization of oil and gas resources in an environmentally acceptable manner. The NOI and NOC will be processed in the minimum time required.

.07 File and Records Maintenance. All geophysical exploration records and case files, including records contained in the Automated Land and Mineral Record System, shall be timely and accurately maintained to ensure that BLM can properly identify and track the case status (see Manual Section 1274 - Serialized Case File System). All closed case files shall be processed and disposed in accordance with procedures established by the National Archives and Records Administration (see Manual Section 1272 - Records Disposition).

.1 Land Use Planning. Where applicable, Management Framework Plans (MFP), Resource Management Plans (RMP), programmatic Environmental Assessments (EA), etc., shall address the likelihood of future geophysical exploration activities. These documents shall address the potential for geophysical exploration activities in relation to other resource values in the area. Recognition shall be given to the limited impact and transient nature of these activities. Typical methods for reducing or avoiding resource conflicts should be addressed in such a way as to foster multiple use and sustained yield objectives. Documentation should discuss historic and projected geophysical use areas but should recognize that new areas may be proposed for survey during the useful life of the planning document. The planning and environmental analysis documents shall be used to develop the terms and conditions for geophysical exploration approval.

.11 Exploration in Closed Areas. Geophysical data collected from areas closed for oil and gas development may provide additional insights into the interpretation of data collected in other areas that are open to development. Consequently, geophysical research is often conducted in areas closed to oil and gas leasing by decisions made in land use plans (RMP's and MFP's). Such closure in those plans should not be the only factor used in determining the appropriateness of geophysical work. Where geophysical exploration is not specifically addressed in the land use plan, the decision and rationale to allow or disallow geophysical exploration shall be documented briefly in the case file. If it is determined that the area is open to geophysical exploration, appropriate terms and conditions must be applied to comply with the intent of the planning decisions.

.12 No Surface Occupancy. Geophysical operations may be appropriate in areas subject to No Surface Occupancy (NSO) stipulations. A determination shall be made regarding the intent of the land use or activity for individual exploration proposals. If it is determined that an NSO area is open to geophysical exploration, appropriate terms and conditions shall be applied to comply with the intent of the planning decisions.

.13 Off-highway Vehicles. Off-highway vehicles (OHV) use designations, developed through the land use planning process, identify areas having limitations or closures that apply to all OHV, including those used during geophysical exploration. It is BLM policy that OHV use is an acceptable use of the public lands wherever it is compatible with established resource management objectives (see 43 CFR 8340). Minor modifications to the land use plan can be made when the proposed actions do not change the management prescription and impacts to the resource values of concern will be mitigated. The appropriate plan maintenance documentation should be completed by the authorized officer.

.14 Seasonal Wildlife Restrictions. The transient nature of geophysical exploration and the short-term impacts of the operations may provide an opportunity for operations to occur in seasonal wildlife areas during the time of closure without creating detrimental effects on wildlife. One example would be allowing a geophysical operation to overlap into a portion of a deer winter range seasonal use restriction. Appropriate exception criteria should exist in the land use plan to allow management flexibility in authorizing geophysical operations (Handbook H-1624-1 - Planning For Fluid Mineral Resources, Chapter IV, C.3.). Plan maintenance and plan amendments may be required to authorize geophysical operations if these options were not considered in the original land use plan.

.2 Environmental and Safety Considerations.

.21 NEPA Compliance. Processing of an NOI is a Federal action subject to environmental consideration under the National Environmental Policy Act of 1969 (NEPA). BLM shall continue to assure environmental protection through the use of terms and conditions attached to the NOI. At a minimum, the environmental review process will be completed for each NOI received (see National Environmental Policy Act Handbook H-1790-1). In most cases use of the standard terms and conditions will ensure appropriate protection.

A. Categorical Exclusions. An EA is not required if there are no exceptions listed in 516 DM 2, Appendix 2 that apply, and the NOI qualifies as a categorical exclusion under 516 DM 2, Appendix 1, Number 1.6 "Non-destructive data collection, inventory (including field, aerial and satellite surveying and mapping), study, research and monitoring activities." Vibroseis, shothole, etc., programs are designed to avoid significant surface modifications and generally are considered to be nondestructive data collection.

B. Existing Environmental Documents. Existing environmental documents should be used when analyzing impacts associated with the NOI. If review, as prescribed in Handbook H-1790-1, Chapter III, determines that a previously prepared NEPA document adequately addresses the proposed action, an EA is not required; however, an administrative determination shall be completed.

C. Environmental Assessments. An EA must be prepared for proposed actions

that (1) are not categorically excluded (see .21A.), (2) have not been adequately covered in an existing environmental document (see .21B.), and (3) do not normally or obviously require an EIS. The EA process need not be time-consuming or complicated. The level of assessment should be commensurate with the anticipated impacts and the degree of public interest. The analysis should be based on the best available information, should be objective, and if possible, quantify impacts. Handbook H-1790-1, Chapter IV provides specific guidance on preparation of an EA.

D. Existing Data. Existing data, including land use plans, published scientific research, and data from other agencies should be used and should be adequate to address the impacts of most proposed geophysical exploration activities. The EA or EIS will be based on this existing data, and shall not result in conducting additional inventories and scientific studies. Inventories and scientific studies are the responsibility of BLM through its annual work plan.

.22 Deep Holes. Exploratory drilling activities, such as core drilling for subsurface geologic information or when drilling may penetrate a known reservoir, shall be authorized with the approval of an Application for Permit to Drill (APD). The activities described above are not authorized by an NOI. All holes drilled pursuant to an NOI must be used for geophysical data collection. When the operator proposes to drill an atypically deep hole that requires the use of nontraditional seismic drilling equipment, the authorized officer should require an APD to be submitted.

.23 Explosives. Explosives shall be stored in accordance with State laws or the U.S. Bureau of Alcohol, Tobacco, and Firearms (ATF) regulations as appropriate. Loaded shotholes shall be secured as described by ATF standards.

.3 Compliance With Nondiscretionary Laws. The BLM is required to comply with other nondiscretionary laws, including, but not limited to those pertaining to cultural resources, threatened and endangered species, and wilderness. Whenever possible, any procedures necessary to comply with such nondiscretionary laws will be coordinated with and be undertaken concurrent to any NEPA review. Determination of categorical exclusions under NEPA are made independent of compliance with the National Historic Preservation Act.

.31 Cultural. The BLM is responsible for ensuring compliance with historic preservation statutes and regulations. This includes responsibility for conducting any necessary cultural resources surveys or inventories. According to Section 301(7) of the 1992 amendments to the National Historic Preservation Act, all geophysical operations approved by BLM are considered to be undertakings subject to compliance with the Act. Therefore, when BLM consults with the State Historic Preservation Officer (SHPO) pursuant to 36 CFR 800.4(a) or the applicable procedures within specific Programmatic Agreements, decisions regarding whether or not any cultural inventories are necessary will take into

account the following:

A. Area of Potential Effect. When consulting with the SHPO to determine the area of potential effect for geophysical undertakings, the BLM position is that a given geophysical undertaking does not have an area of potential effect in a given location unless:

1. Historic Properties. Historic properties are known or are likely to exist within the proposal's area of potential effect (see .31C below).

2. Type of Operation. The type of operation proposed is likely to result in changes in character (See 36 CFR 800, et seq.) or use of such historic property. Factors to consider are:

a. Surface Modification. Would the proposed operation involve blading or other land modifications.

b. Vibrations. Would the use of explosives, vibroseis, etc., cause vibrations that could damage standing structures or rock art.

c. Compaction. Would the proposed activity cause substantial compaction and/or rutting in wet, subirrigated, or loosely consolidated soils, which could damage subsurface deposits.

d. Crushing. Would the proposed action fracture, shatter, or crush archeological material found on the surface.

e. Blasting. Would the use of explosives damage standing structures or rock art.

f. Vehicular Traffic. Would the use of vehicles result in improved access, which would encourage public use.

B. Factors Suggesting That Cultural Inventories Are Not Necessary. For those portions of the geophysical operation where the following will occur, the BLM shall take the position, in consultations with the SHPO, that cultural inventories are not needed.

1. Roads. The proposed operation is restricted to established roads or trails.

2. Casual Use. The geophysical activities meet the definition of casual use in 43 CFR 3150.0-5(b).

3. Pedestrian Operations. The operation will utilize pedestrian transport of hand-carried geophones, cables, or similar equipment.

4. Frozen Ground. Cross-country operations of seismic trucks and support vehicles will occur on frozen ground or where there is sufficient snow cover to

avoid rutting of underlying soils and these conditions will exist during the time of the operation.

5. One-time Pass. A one-time pass using wheeled vehicles under 10,000 pounds (gross vehicle weight having been determined).

C. Inventory Considerations. A lack of inventory data shall not, in itself, cause the BLM to recommend to the SHPO that a cultural resource survey is necessary. During the consultation process with the SHPO, the BLM will base recommendations for cultural inventories on existing inventory data and the likelihood that unidentified historic properties exist in the area of potential effect. The determination of the likelihood that unidentified historic properties exist in the area of potential effect must be based on direct comparisons with existing inventory information of areas with similar environmental characteristics. These characteristics include, but are not limited to, slope, aspect, vegetation, land form, geology, and soils. Cultural resource inventories will be limited to portions of the geophysical undertakings where historic properties are known or likely to exist and the type of operation is likely to result in changes in character or use of such historic properties.

D. Rule of Reason Determinations. Cultural resource inventory will not be necessary for those portions of the area of potential effect for which one or more of the following conditions are demonstrated to exist.

1. Previously Disturbed Ground. Previous natural ground disturbance has modified the surface so extensively that the likelihood of finding cultural properties is minimal.

2. New Land Surface. Human activity within the last 50 years has created a new land surface to such an extent that surface evidence of cultural properties are likely to have been eradicated.

3. Existing Class II. Existing Class II or equivalent inventory data is sufficient to indicate that the specific environmental situation did not support historic human occupation or use. Further inventory would not be useful or meaningful.

4. Existing Class III. Inventory at the Class III level of intensity has previously been performed and records documenting the inventory are available.

E. Intensity of Inventory. The intensity of cultural survey should be consistent with the type of geophysical activity proposed. Such survey will be conducted at the minimum appropriate intensity. These determinations will be made in consultation with the SHPO or as provided for in State-specific programmatic agreements.

.32 Threatened and Endangered Species. Protection of threatened and endangered (T&E) species is mandated by the Endangered Species Act of 1973

(ESA) and other related legislation. If the processing of a NOI reveals that conflicts with a T&E species or its habitat exists, the operator shall be notified that processing of the NOI cannot be completed until the BLM has complied with the ESA. The procedures for complying with the ESA are contained in 50 CFR 402 and BLM Manual 6840 - Special Status Species Management.

A. Nature of Geophysical Operations. By their nature, geophysical operations traverse an area in a few days. By design, the operations are intermittently spaced and their effects are localized, resulting in minimal surface disturbance. Therefore, many of the operations may be designed to avoid sensitive areas and, consequently, would have little or no effect on T&E species and their critical habitat.

B. BLM Determination. The BLM's determination regarding effects of a geophysical survey shall be based on (1) the presence of T&E species or their critical habitat known to exist along the route of the proposed geophysical survey, and (2) existing information verifying that the T&E species, or their critical habitat located along the proposed geophysical survey, may be affected by the proposal.

C. Existing Data. Existing data, including land use plans, published scientific research, and data from other agencies should be used and should be adequate to address the impacts of most proposed geophysical exploration activities. The review of the NOI will be based on this existing data, and shall not result in conducting additional inventories and scientific studies. Inventories and scientific studies are the responsibility of BLM through its annual work plan.

D. BLM-Operator Cooperation. The operator and the BLM shall develop measures that will minimize or eliminate any impacts of the geophysical proposal on T&E species, if they exist. When necessary, the BLM should informally consult with the Fish and Wildlife Service (FWS) to address those conflicts. A proposed geophysical project redesigned to eliminate the conflict must be made part of an amendment to the NOI.

E. Consultation. The BLM must initiate consultation with the FWS if an authorized officer determines, from the use of existing information, that known populations of T&E species or their designated critical habitat are present along the proposed geophysical survey route, and existing information demonstrates that such species or habitat may be affected by the type of survey proposed. The authorized officer is responsible for documenting the information relied upon to make such a determination. Section 7 consultation with the FWS shall be processed as soon as possible but may require 90 days or more for formal consultation.

.33 Wilderness Areas. The Federal Land Policy and Management Act of 1976 requires that designated wilderness areas be managed under provisions of the Wilderness Act. The BLM will manage any areas designated by Congress as

wilderness under BLM Manual 8560 - Management of Designated Wilderness Areas. Wilderness Management plans and associated environmental assessments for wilderness management identify uses that are allowed or restricted within specific wilderness areas.

.34 Wilderness Study Areas.

A. Interim Management. The BLM's objective in wilderness study areas (WSA) is to manage and protect public lands under wilderness review, in such a manner so as to not impair their suitability for preservation as wilderness, until they are either designated as wilderness by Congress or released from further wilderness consideration. The BLM Manual 8550 - Interim Management Policy and Guidelines for Lands Under Wilderness Review provides concepts and specific guidelines to determine what activities can occur within WSA's. The nonimpairment criteria of the Interim Management Policy is the key element in determining how much activity can be allowed within a WSA.

B. Nonimpairment. Nonimpairment determinations must be completed for all actions within WSA's. Generally, a NOI for geophysical survey by helicopter or other means not requiring road construction or improvement may be authorized if it satisfies the nonimpairment criteria. The NEPA process is used to evaluate and document the nonimpairment finding. Since most portable geophysical operations are short-term in nature, they usually are not found to impair such areas.

C. Public Notice. BLM must provide a public notice at least 30 days prior to authorizing a proposed action in a WSA. An EA must be available for public review when the notice of the proposed action is sent out.

.4 Bonding. The geophysical exploration operator must be bonded. Normally, the operator will provide the required bond. An individual bond as described in 43 CFR 3104 shall be filed with the NOI for at least \$5,000 per operation. The bond shall be conditioned upon full and faithful compliance with the practices described in the terms and conditions and with the NOI. In lieu of the \$5,000 individual bond, a statewide bond for a minimum of \$25,000 covering all oil and gas exploration operations in the same State, or a nationwide bond for a minimum of \$50,000 covering all oil and gas exploration operations in the Nation, shall be filed. Holders of individual, statewide or nationwide oil and gas lease bonds are allowed to conduct geophysical exploration on their own leaseholds under their lease bonds. Holders of statewide or nationwide lease bonds that conduct geophysical exploration operations on lands that they do not have under lease are allowed to obtain a rider on their statewide or nationwide lease bond to cover geophysical operations on such lands. The authorized officer shall increase the amount of any bond (new or existing) when additional coverage is needed to ensure resource protection and reclamation. Any increase request by the authorized officer to the bond amount shall be accompanied by a written explanation of the specific additional risk, unique to the geophysical survey area,

that is being covered by the additional bonding requirement increase. See Manual 3104 and Handbook H-3104-1 - Bonds for procedures concerning geophysical bond requirements and acceptance by the BLM authorized officer.

.41 Type of Bond. The bond shall be either a surety or personal bond.

A personal bond may be in the form of a certificate of deposit, cashier's check, certified check, negotiable Treasury security, or irrevocable letter of credit. A surety bond shall be a corporate surety approved by the Department of the Treasury. The State Office Adjudication Section can assist with approvals when necessary.

.5 Other Agency Coordination. The BLM cannot accept an NOI to conduct geophysical exploration on lands administered by other Federal agencies. It is the responsibility of the operator and the other agency to meet the permitting requirements of the other Federal agency. The BLM authorization will not be withheld pending approval of other permits. An exception exists where a Memorandum of Understanding (MOU) with another surface management agency provides for BLM involvement. When geophysical exploration activity involves administrative or management authority of both BLM and other agencies, operators shall be advised that contact with other agencies may be required as soon as possible after receipt of the NOI. The other agencies shall be notified in writing by the BLM.

.51 Memoranda of Understanding.

A. Department of Defense. There is a national-level MOU between the BLM and the Department of Defense (DOD) with directives for Air Force, Navy, and Army lands. The NOI's for geophysical exploration on unleased land under DOD jurisdiction will normally be reviewed by the managing DOD agency. If a DOD agency refers an NOI to the BLM, the procedures for issuing an exploration permit in Alaska shall be used (see 43 CFR 3152 and 43 CFR 3153). In no case will geophysical exploration be authorized on DOD lands without the consent of, and subject to the terms and conditions required by, the surface management agency.

B. Bureau of Reclamation. In accordance with the interagency agreement between the Bureau of Reclamation (BOR) and the BLM, the BLM is the responsible agency for authorizing and monitoring all geological, geophysical, and seismic prospecting and exploration on BOR lands. When an application is received for a project proposed to cross BOR-administered lands, the BOR will be contacted by BLM for its concurrence and development of the terms and conditions.

C. Forest Service. The Forest Service authorizes all exploration activities conducted on National Forest lands. The BLM will contact the appropriate Forest

Service office when an exploration project may affect Forest Service lands.

.6 Non-Federal Surface. Approval of geophysical exploration under 43 CFR 3150 is limited to Federal surface administered by BLM. If the portion of the geophysical survey on non-Federal surface can be conducted independently of Federal authorization, the BLM jurisdiction is limited to Federal surface. BLM responsibility may extend to non-Federal surface if Federal authorization is critical to completion of the project. It is the responsibility of the operator to determine if the viability of the project depends on the Federal lands. This determination must be addressed in the NOI. The determination of BLM responsibility on non-Federal surface will be made by the authorized officer, discussed with the operator, and documented within the case file.

.61 Access to Split Estate. Access to split estate is only an issue if access to the private surface/Federal mineral is denied by its owner/lessee. Right of access is authorized by 43 CFR 3160 (Lease Operations) if the geophysical operator is acting as the lessee's designated operator. Further discussion is contained in Handbook H-3150-1.

.7 Coordination with Other Public Agencies.

.71 State. It is the policy of BLM to cooperate closely with the appropriate State agencies regarding management of geophysical operations in compliance with BLM and state regulations. BLM managers are encouraged to further Federal/State cooperation at the local level by notifying the State of NOI's to conduct geophysical operations. BLM will request the operator to provide the State permit number prior to approving the NOI, if such information is available. NOI's should not be delayed pending acquisition of this information. In addition, BLM should work with State agencies to increase efficiency when conducting compliance activities.

.72 Other Federal. BLM policy also requires close cooperation with other Federal agencies concerning the management of geophysical operations.

Appendix 1

Applicable Authorities Relating to Onshore Oil and Gas

Geophysical Exploration Surface Management Requirements

American Antiquities Act of June 8, 1906 (34 Stat. L 225).

American Indian Religious Freedom Act, Public Law 95-341.

Archaeological Resource Protection Act of 1979 (93 Stat. 721).

Desert Land Act of 1877, as amended (43 U.S.C. 321 et seq.).

Endangered Species Act of 1973.

Executive Order 11514 of March 5, 1970, Protection and Enhancement of Environmental Quality.

Interagency Agreement Between the Bureau of Reclamation and the Bureau of Land Management, Information Bulletin No. 89-99.

Memorandum of Understanding for the Onshore Oil and Gas and Geothermal Program between the Department of Defense and the BLM. WO-203. 01/26/84.

National Environmental Policy Act (NEPA) of 1969 (43 U.S.C. 4231).

National Historic Preservation Act of 1966 Public Law 89-665 as amended, in 1992.

Native American Graves Protection and Repatriation Act, Public Law 101-601; Stat. 3048.

Preservation of American Antiquities (43 CFR 3).

Protection of Archaeological Resources Uniform Regulations (43 CFR 7).

Protection of Historic Properties (36 CFR 800).

Rocky Mountain Regional Solicitor's Memorandum on Geophysical Exploration Operations, April 29, 1975, concerning BLM authority to regulate how operations are executed on public lands.

Stockraising Homestead Act of December 29, 1916 (43 U.S.C. 299).